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**NLRB WILL ISSUE CASES WITH TWO-MEMBER  
QUORUM AFTER MEMBER SCHAUMBER DEPARTS**

The three current Members of the National Labor Relations Board today delegated to themselves, as a three-member group, all of the Board's powers, in anticipation of the expiration of Member Peter C. Schaumber's term on August 27. This action will permit the remaining two Members, Chairman Robert J. Battista and Member Wilma B. Liebman, as a quorum of the three-member group, to issue decisions and orders in unfair labor practice and representation cases. This delegation will be revoked when the Board returns to at least three Members.

Under Section 3(b) of the National Labor Relations Act, the Board may "delegate to any group of three or more members any or all of the powers which it may itself exercise." The Act further provides that, where the Board has delegated its power to a group of three or more members, a quorum of the group shall be two members.

The provision for a two-member quorum of such a group of three members is an express exception to the statutory requirement that a quorum of the Board shall be three members. The Act also states that "[a] vacancy in the Board shall not impair the right of the remaining members to exercise all of the powers of the Board."

In addition to this statutory language, the Board relied on a March 2003 opinion issued by the Justice Department's Office of Legal Counsel, which concluded that "if the Board delegated all of its powers to a group of three members, that group could continue to issue decisions and orders as long as a quorum of two members remained."

Besides issuing decisions and orders, the Board's action will allow it to continue to consider and act on requests from the Acting General Counsel for authorization to act on all court litigation matters, including whether to seek injunctions under Section 10(j) of the Act.

In announcing the Board's decision, Chairman Battista stated:

The Board recognized that it has a continuing responsibility to the public to fulfill its statutory obligation in the most effective and efficient manner possible under the circumstances. Our main concern was that the Board remain productive after Member Schaumber's departure. Parties to our cases will be well-served by the action we have taken today. Hopefully, we will return to a full Board in the near future.

Member Schaumber began serving on the Board on December 17, 2002. President Bush nominated him for a second term on June 30, 2005. The nomination is pending before the Senate.

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